

108TH CONGRESS  
1ST SESSION

# H. R. 3369

To provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage or adoption of rules for athletic competitions and practices.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 2003

Mr. SOUDER (for himself, Mr. WYNN, Mr. OSBORNE, Mr. HASTINGS of Washington, Mr. KELLER, and Mrs. MUSGRAVE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage or adoption of rules for athletic competitions and practices.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Nonprofit Athletic Or-  
5       ganization Protection Act of 2003”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) ECONOMIC LOSS.—The term “economic  
2           loss” means any pecuniary loss resulting from harm  
3           (including the loss of earnings or other benefits re-  
4           lated to employment, medical expense loss, replace-  
5           ment services loss, loss due to death, burial costs,  
6           and loss of business or employment opportunities) to  
7           the extent recovery for such loss is allowed under ap-  
8           plicable State law.

9           (2) HARM.—The term “harm” includes phys-  
10          ical, nonphysical, economic, and noneconomic losses.

11          (3) NONECONOMIC LOSS.—The term “non-  
12          economic loss” means any loss resulting from phys-  
13          ical and emotional pain, suffering, inconvenience,  
14          physical impairment, mental anguish, disfigurement,  
15          loss of enjoyment of life, loss of society and compan-  
16          ionship, loss of consortium (other than loss of do-  
17          mestic service), hedonic damages, injury to reputa-  
18          tion, and all other nonpecuniary losses of any kind  
19          or nature.

20          (4) NONPROFIT ORGANIZATION.—The term  
21          “nonprofit organization” means—

22                (A) any organization which is described in  
23                section 501(c)(3) of the Internal Revenue Code  
24                of 1986 and exempt from tax under section  
25                501(a) of such Code; or

1 (B) any not-for-profit organization which  
2 is organized and conducted for public benefit  
3 and operated primarily for charitable, civic,  
4 educational, religious, welfare, or health pur-  
5 poses.

6 (5) NONPROFIT ATHLETIC ORGANIZATION.—

7 The term “nonprofit athletic organization” means a  
8 nonprofit organization that has as one of its primary  
9 functions the adoption of rules for sanctioned or ap-  
10 proved athletic competitions and practices. The term  
11 includes the employees, agents, and volunteers of  
12 such organization, provided such individuals are act-  
13 ing within the scope of their duties with the non-  
14 profit athletic organization.

15 (6) STATE.—The term “State” includes the  
16 District of Columbia, and any commonwealth, terri-  
17 tory, or possession of the United States.

18 **SEC. 3. LIMITATION ON LIABILITY FOR NONPROFIT ATH-**  
19 **LETIC ORGANIZATIONS.**

20 (a) LIABILITY PROTECTION FOR NONPROFIT ATH-  
21 LETIC ORGANIZATIONS.—Except as provided in sub-  
22 sections (b) and (c), a nonprofit athletic organization shall  
23 not be liable for harm caused by an act or omission of  
24 the nonprofit athletic organization in the adoption of rules

1 for sanctioned or approved athletic competitions or prac-  
2 tices if—

3 (1) the nonprofit athletic organization was act-  
4 ing within the scope of the organization’s duties at  
5 the time of the adoption of the rules at issue;

6 (2) the nonprofit athletic organization was, if  
7 required, properly licensed, certified, or authorized  
8 by the appropriate authorities for the competition or  
9 practice in the State in which the harm occurred or  
10 where the competition or practice was undertaken;  
11 and

12 (3) the harm was not caused by willful or crimi-  
13 nal misconduct, gross negligence, or reckless mis-  
14 conduct on the part of the nonprofit athletic organi-  
15 zation.

16 (b) RESPONSIBILITY OF EMPLOYEES, AGENTS, AND  
17 VOLUNTEERS TO NONPROFIT ATHLETIC ORGANIZA-  
18 TIONS.—Nothing in this section shall be construed to af-  
19 fect any civil action brought by any nonprofit athletic or-  
20 ganization against any employee, agent, or volunteer of  
21 such organization.

22 (c) EXCEPTIONS TO NONPROFIT ATHLETIC ORGANI-  
23 ZATION LIABILITY PROTECTION.—If the laws of a State  
24 limit nonprofit athletic organization liability subject to one

1 or more of the following conditions, such conditions shall  
2 not be construed as inconsistent with this section:

3 (1) A State law that requires a nonprofit ath-  
4 letic organization to adhere to risk management pro-  
5 cedures, including mandatory training of its employ-  
6 ees, agents, or volunteers.

7 (2) A State law that makes the nonprofit ath-  
8 letic organization liable for the acts or omissions of  
9 its employees, agents, and volunteers to the same ex-  
10 tent as an employer is liable for the acts or omis-  
11 sions of its employees.

12 (3) A State law that makes a limitation of li-  
13 ability inapplicable if the civil action was brought by  
14 an officer of a State or local government pursuant  
15 to State or local law.

16 **SEC. 4. PREEMPTION.**

17 This Act preempts the laws of any State to the extent  
18 that such laws are inconsistent with this Act, except that  
19 this Act shall not preempt any State law that provides  
20 additional protection from liability relating to the rule-  
21 making activities of nonprofit athletic organizations.

22 **SEC. 5. EFFECTIVE DATE.**

23 (a) IN GENERAL.—This Act shall take effect on the  
24 date of enactment of this Act.

1       (b) APPLICATION.—This Act applies to any claim for  
2   harm caused by an act or omission of a nonprofit athletic  
3   organization that is filed on or after the effective date of  
4   this Act but only if the harm that is the subject of the  
5   claim or the conduct that caused the harm occurred on  
6   or after such effective date.

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